

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

MICHAEL KALOS,)
)
Plaintiff,)
)
v.)
)
CEDAR FAIR ENTERTAINMENT)
COMPANY, CEDAR FAIR)
SOUTHWEST INC., d/b/a)
CAROWINDS, DYNAMIC)
ATTRACTIONS, INC., and JOHN DOE)
1 AND 2,)
)
Defendants,)
)
)
)
_____)

Case No.: 0:22-cv-01114-MGL

DEFENDANTS' NOTICE OF REMOVAL

Defendant Cedar Fair Southwest Inc., d/b/a Carowinds, by and through the undersigned counsel, pursuant to 28 U.S.C. §§ 1332 and 1441, gives notice to the Clerk of the United States District Court for District of South Carolina, that they hereby remove to this Court the state court action filed by Plaintiff Michael Kalos in the Court of Common Pleas for York County, South Carolina. In support of this Notice of Removal, Defendant states as follows:

1. This action is being removed to Federal Court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00.

2. On March 3, 2022, Plaintiff filed a Complaint in the Court of Common Pleas of York County, South Carolina styled *Michael Kalos v. Cedar Fair Entertainment Company, Cedar*

Fair Southwest Inc., d/b/a Carowinds, Dynamic Attractions, Inc., and John Doe 1 and 2, and assigned Civil Case No. 2022-CP-46-00685 (“State Court Action”). Plaintiff’s claims for relief against Defendants in the State Court Action are for “negligence/gross negligent/premises liability” and “other liability.”

3. Defendant Cedar Fair Southwest Inc. was served with the summons and complaint in the State Court Action through their registered agent via certified mail on March 14, 2022.

4. This Notice is being filed within 30 days of the date of service in the State Court Action, and therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

5. The United States District Court for the District of South Carolina has original jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1332(a), and it may be removed by Defendant pursuant to 28 U.S.C. § 1441(a) and (b) for the following reasons:

a. At the commencement of this action, upon information and belief, the Plaintiff was a resident of the Commonwealth of Pennsylvania (as his residence and citizenship were not stated in the Complaint);

b. At the commencement of this action, Defendant Cedar Fair Entertainment Company is a tradename for Cedar Fair, L.P. and not a proper party to this action. Cedar Fair, L.P. is a Delaware corporation with a principal place of business in Sandusky, Ohio;

c. At the commencement of this action, Defendant Cedar Fair Southwest, Inc. was a Delaware corporation with a principal place of business in Sandusky, Ohio;

d. At the commencement of this action, Defendant Dynamic Attractions, Inc. was a Delaware corporation with a principal place of business in Orlando, Florida;

e. Plaintiff named as defendants “John Doe 1” and “John Doe 2,” who are alleged to be residents of the State of South Carolina. Under 28 U.S.C. § 1441(b)(1), for purposes

of determining whether an action is removable based on diversity of citizenship, “the citizenship of defendants sued under fictitious names shall be disregarded.” Thus, this Court must disregard the alleged residency of the “John Doe” defendants for purposes of determining diversity of citizenship;

f. At the commencement of this action, complete diversity of citizenship existed under 28 U.S.C. § 1338(2)(1); and

g. The amount in controversy between the Plaintiff and the Defendants in this action, exclusive of interest and costs, exceeds \$75,000.00, upon information and belief.

6. Copies of all pleadings served upon Defendant in the State Court Action are attached hereto as exhibits as outlined below:

a. “Exhibit A” – Summons; and

b. “Exhibit B” – Complaint.

7. All defendants hereby unanimously consent to this removal to the United States District Court for District of South Carolina.

WHEREFORE, Defendant Cedar Fair Southwest Inc. respectfully requests that this action be removed to the United States District Court for District of South Carolina.

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Respectfully submitted, this the 6th day of April, 2022.

RAGSDALE LIGGETT PLLC

By: /s/ John B. Walker

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*Counsel for Defendant Cedar Fair Southwest
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system and mailed the same via United States Postal Service, first-class, postage prepaid, and addressed to the following counsel of record:

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This the 6th day of April, 2022.

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